

## **EXHIBIT 3**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT  
OF PENNSYLVANIA

\* \* \* \* \*

BENEZET CONSULTING, \*  
LLC; and TRENTON POOL, \*

Plaintiffs \*Case No.

vs. \*1-16-CV-0074

PEDRO A. CORTÉS, in \*

his official capacity \*

as the Secretary of \*

the Commonwealth of \*DEPOSITION OF

Pennsylvania; and \*JONATHAN MARKS

JONATHAN MARKS, in his \*October 18,

official capacity as \*2016

Commissioner of the \*

Bureau of Commissions, \*

Elections and \*

Legislation, \*

Defendants \*

\* \* \* \* \*

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DEPOSITION  
OF  
JONATHAN MARKS, taken on behalf of the  
Plaintiff herein, pursuant to the  
Rules of Civil Procedure, taken before  
me, the undersigned, Bernadette Black,  
a Court Reporter and Notary Public in  
and for the Commonwealth of  
Pennsylvania, at Crowne Plaza  
Harrisburg, 23 South Second Street,  
Harrisburg, Pennsylvania, on Tuesday,  
October 18, 2016 beginning at 10:06  
a.m.

A P P E A R A N C E S

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I N D E X

WITNESS: JONATHAN MARKS

EXAMINATION

By Attorney Rossi

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CERTIFICATE

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EXHIBIT PAGE

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>PAGE IDENTIFIED</u>
1	Nomination Paper	16
2	Rocky De La Fuente Nomination Petition	20

\*Exhibits not attached.

OBJECTION PAGE

ATTORNEY

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	23 , 27 , 29 , 50 ,
	67 , 74 , 75 , 75 ,
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P R O C E E D I N G S

-----  
JONATHAN MARKS, HAVING FIRST BEEN DULY  
SWORN, TESTIFIED AS FOLLOWS:

-----  
EXAMINATION

BY ATTORNEY ROSSI:

Q. Good morning. All right.  
State your name for the record,  
please.

A. Good morning. Jonathan Marks,  
first name is J-O-N-A-T-H-A-N. Last  
name is M-A-R-K-S.

Q. Good morning, Mr. Marks.

A. Good morning.

Q. You've been deposed before?

A. I have.

Q. I know for a fact that's true.  
But just to go over some ground rules.  
If I ask a question and you don't  
understand the question, please stop  
and ask me to rephrase and I'll be  
happy to do that.

A. Okay.

Q. And may I assume then, if you



1       answer a question you understand the  
2       question that you're answering?

3       A.       Yes.

4       Q.       And obviously we try not to  
5       talk over each other for the court  
6       reporter. So if --- I'll try not to  
7       talk over you and you talk over me,  
8       okay?

9       A.       I'll do my best.

10      Q.       And obviously, you need to give  
11      verbal answers, so that the court  
12      reporter can record the answer.

13      A.       Correct.

14      Q.       What is your position with the  
15      Commonwealth of Pennsylvania?

16                      ATTORNEY JOEL:

17                      Could I just note before  
18                      we get started --- he's going  
19                      to read and sign.

20                      ATTORNEY ROSSI:

21                      Yes.

22                      ATTORNEY JOEL:

23                      I'm sorry, go ahead.

24      A.       I am the Commissioner of the  
25      Bureau of Commissions, Elections and

1       Legislation.

2       BY ATTORNEY ROSSI:

3       Q.       And with respect to the ---?  
4       With respect to the circulation of  
5       election petitions, what is your role  
6       in that process?

7       A.       I oversee basically, all the  
8       requirements of the Bureau, including  
9       nomination petition filing. So it's  
10      really just making sure that  
11      everything is coordinated each year  
12      for candidates to come to the  
13      Department of State to file their  
14      nomination petitions.

15      Q.       How does an individual get on  
16      the ballot in the Commonwealth of  
17      Pennsylvania?

18      A.       An individual in general or as  
19      it relates to the petitions?

20      Q.       As it relates --- in general.  
21      We'll start from the large --- we'll  
22      start from the macro and go down to  
23      the micro.

24      A.       Okay.

25      Q.       How does --- how does anybody

1 get on the ballot in Pennsylvania?

2 A. The method for accessing the  
3 ballot, whether it's the primary  
4 ballot or the November election  
5 ballot, involves circulation of  
6 nomination petitions or nomination  
7 papers. Basically candidates collect  
8 signatures from registered electors of  
9 the Commonwealth, to have their names  
10 submitted for inclusion on the ballot.

11 So in the primary it's  
12 nomination petitions. And candidates  
13 who are seeking to access either the  
14 Republican or the Democratic primary  
15 ballots would circulate nomination  
16 petitions on their own behalf to  
17 access the ballot. And they would  
18 collect signatures from registered and  
19 enrolled members of the political  
20 party.

21 And to access a November  
22 ballot, minor political parties and  
23 political bodies, which are  
24 independent organizations, would  
25 collect signatures on nomination

1 papers to access the November ballot.

2 Q. What is the difference between  
3 a petition --- a nominating petition  
4 and a nominating paper?

5 A. Well, there are a number of  
6 differences. The biggest difference  
7 is that the nomination petition, it's  
8 really two similar processes with  
9 different ends. Nomination petitions,  
10 as I said, are for accessing the  
11 primary ballot by the Republican or  
12 Democratic primary.

13 Nomination papers, you're  
14 gaining access directly to the general  
15 election ballot, the November election  
16 ballot. The signature requirements  
17 are set in statute for nomination  
18 petitions. They are a specific number  
19 of signatures for each office.

20 Whereas nomination papers until a  
21 recent Federal Court order, was a  
22 calculation based on a percentage of  
23 votes cast in a previous election.

24 Q. And who determines if --- what  
25 is the difference between the

1 Republican and Democratic parties and  
2 minor political parties and political  
3 bodies?

4 A. The difference, basically, the  
5 two, the Republican and Democratic  
6 parties, are qualified under the  
7 Pennsylvania election code as major  
8 parties. Because they have met a  
9 certain threshold based on election  
10 performance. And they also meet the  
11 threshold based on percentage of  
12 overall voter registration. That's  
13 what qualifies them as major parties.

14 Q. And what is the threshold for  
15 registration to be a major party?

16 A. Fifteen (15) percent, I  
17 believe.

18 Q. Of the total ---?

19 A. The total number of registered  
20 voters in the Commonwealth.

21 Q. You testified that minor  
22 political parties and political bodies  
23 circulate nominating papers. What is  
24 the difference between a minor  
25 political party and a political body?

1       A.       A minor political party has  
2       actually qualified as a political  
3       party at either the statewide level or  
4       county level. And again, that's based  
5       on performance at a previous election.  
6       If one of their candidates received a  
7       certain percentage of the total votes  
8       cast for the elected candidate or the  
9       winning candidate at the last  
10      election, they would qualify as a  
11      political party, but not necessarily a  
12      major political party. Political  
13      bodies basically is everything else.

14      Q.       Would a --- just an individual  
15      who hadn't run in a prior election be  
16      a political body?

17      A.       Yeah, it would be a political  
18      body under the meaning of the election  
19      code. So an independent candidate  
20      would be considered a political body  
21      for purposes of nomination paper  
22      filing. Political body is basically  
23      anything that does not qualify as a  
24      political party.

25      Q.       So there are three

1        classifications of political  
2        organizations in Pennsylvania, a major  
3        political party, a minor political  
4        party and a political body?

5        A.        Correct.

6        Q.        And major political parties  
7        have to circulate nominating  
8        petitions? And minor political  
9        parties and political bodies,  
10       circulate the nominating papers?

11       A.        Correct.

12       Q.        And the requirements for minor  
13       --- strike that.

14                Are the requirements to get  
15       onto the general election ballot the  
16       same for minor political parties and  
17       political bodies?

18       A.        In terms of the signature  
19       requirement?

20       Q.        Correct, yes. What benefit is  
21       there for a minor political party to  
22       be --- to meet a threshold, other ---  
23       strike that.

24                What is the difference between  
25       a minor political party and political

1       bodies with respect to access to the  
2       ballot?

3       A.       Well, a minor political party  
4       basically gets --- because there's a  
5       party organization, they file party  
6       rules with the Secretary of the  
7       Commonwealth or the County Board of  
8       elections. They get --- I referred  
9       to it as right of refusal. But they  
10      basically get more control over who  
11      their candidates are.

12             They also are given the benefit  
13      of being able to nominate candidates  
14      for special elections, by way of  
15      nomination certificate, as supposed to  
16      circulating nomination papers. I  
17      think those are the only two  
18      substantive differences.

19      Q.       So those are the two benefits  
20      that they get from having shown some  
21      success in prior elections?

22      A.       Correct.

23                     (Plaintiff's Exhibit 1  
24                     marked for  
25                     identification.)



1 BY ATTORNEY ROSSI:

2 Q. Okay. Let me show you  
3 Plaintiff's Exhibit 1. Are you  
4 familiar with that document?

5 A. I am, yes.

6 Q. And what is that? State for  
7 the record what that is.

8 A. It is a --- it appears to be a  
9 page of a nomination paper submitted  
10 by an independent political body,  
11 nominating Rocky De La Fuente and  
12 Michael --- is it Steinberg, it's kind  
13 of hard to see --- for the offices of  
14 President and Vice President of the  
15 United States.

16 Q. Is that an accurate reflection,  
17 is that an accurate reproduction of a  
18 nominating paper in Pennsylvania?

19 A. It is, yes.

20 Q. Okay. And who promulgates that  
21 form?

22 A. The Department of State.

23 Q. Okay. Who determines --- who  
24 has the authority to alter that form?

25 A. Well, we would have the

1 authority to alter it or the General  
2 Assembly. Obviously, these are all  
3 statutory requirements.

4 Q. Drawing your attention to the  
5 back of the exhibit, section E?

6 A. Yes.

7 Q. Okay. What is that ---  
8 describe that for the record.

9 A. That is the statement of  
10 circulator. It's essentially an  
11 affirmation signed by the person who  
12 circulated the nomination paper page,  
13 attesting to the fact that the  
14 circulator obtained all of the  
15 signatures listed on the nomination  
16 paper page.

17 Q. And when was that added to the  
18 --- has that always been on the  
19 nominating paper while you've been  
20 with the office?

21 A. Actually, there's --- prior to  
22 that, there was an affidavit  
23 circulator. The statement of  
24 circulator, which is slightly  
25 different, was added, I believe, last

1 year.

2 Q. And why was that added?

3 A. It was added as a result of  
4 Federal Court Order.

5 Q. And what is the difference  
6 between an affidavit and a statement  
7 of circulator?

8 A. Well, the affidavit has to be  
9 notarized. The key difference is an  
10 affidavit of circulator has to be  
11 notarized. The statement is an  
12 affirmation that just has to be signed  
13 by the individual.

14 Q. And was this paper --- was this  
15 version of the nominating paper  
16 circulated by all minor political  
17 parties, candidates and political  
18 bodies in 2016?

19 ATTORNEY JOEL:

20 Object to the form.

21 ATTORNEY ROSSI:

22 Yeah, I agree. Let me  
23 untangle that.

24 ATTORNEY JOEL:

25 Sure.

1 BY ATTORNEY ROSSI:

2 Q. Did all candidates for minor  
3 political parties circulate that form  
4 to get on the ballot in 2016?

5 ATTORNEY JOEL:

6 Same objection, but go  
7 ahead.

8 A. Yeah, actually this is the  
9 political body nomination paper. So  
10 it would've been circulated by  
11 political body candidates. I don't  
12 believe there are any qualified minor  
13 political parties in this election  
14 cycle.

15 BY ATTORNEY ROSSI:

16 Q. Oh, okay. Thank you, I was  
17 unaware of that. So let me rephrase  
18 the question. Did all political  
19 bodies circulate that form in 2016?

20 ATTORNEY JOEL:

21 Just the same objection,  
22 go ahead.

23 A. Yes, candidates for political  
24 bodies circulated this form in 2016.

25 BY ATTORNEY ROSSI:

1 Q. And when you mean form, you  
2 mean a blank form?

3 A. Right. They would've --- so I  
4 think we had candidates for  
5 Libertarian party, Green party,  
6 Constitution party, Independent  
7 candidates. All would've circulated  
8 the political body nomination paper  
9 this year.

10 (Plaintiff's Exhibit 2  
11 marked for  
12 identification.)

13 BY ATTORNEY ROSSI:

14 Q. Okay. Let me show you  
15 Plaintiff's Exhibit Number 2. And  
16 describe that --- the exhibit to the  
17 Court, please. What is that document  
18 I presented to you?

19 A. It appears to be a page from  
20 Rocky De La Fuente's nomination  
21 petition for the Democratic primary  
22 for the office of President of the  
23 United States.

24 Q. And again, on the back of the  
25 exhibit, second page at the bottom,

1 drawing your attention to the  
2 affidavit of circulator. What is that  
3 part of the form?

4 A. The affidavit of circulator is  
5 an affidavit executed by the  
6 individual who circulated that  
7 nomination petition page.

8 Q. And what are the requirements  
9 to execute the affidavit of  
10 circulator?

11 A. The individual has to execute  
12 this in front of a notary public or  
13 another officer who's authorized to  
14 acknowledgements.

15 Q. Now, comparing Plaintiff's  
16 Exhibit 1 with Plaintiff's Exhibit 2,  
17 the back of the page, other than the  
18 notarization requirement, are there  
19 any differences between the two?

20 ATTORNEY JOEL:

21 Just object to the form.

22 A. Well, there are a number of  
23 differences in the actual language of  
24 the affirmation versus the affidavit.  
25 The substantive difference is that the

1 nomination paper is an affirmation  
2 versus the affidavit on the nomination  
3 petition. So it includes an area  
4 where the official who's authorized to  
5 acknowledge would complete the form.  
6 I'm not sure what you're ---.  
7 Differences in the language, so ---.

8 ATTORNEY JOEL:

9 Do you want him to read  
10 both, both sets of languages in  
11 it?

12 ATTORNEY ROSSI:

13 No, it's going to be in  
14 the record, that's fine. I  
15 just want to get to one final  
16 question on that.

17 BY ATTORNEY ROSSI:

18 Q. Is the affirmation --- or the  
19 statement of the circulator, is that  
20 executed under a penalty of perjury?

21 A. I believe it is and I believe  
22 it says so here. Specifically it  
23 states that I state that the  
24 information set forth in this section  
25 is true and accurate and made subject

1 to the criminal penalties imposed by  
2 law for violation of 18 Pa.C.S.  
3 Section 4904 relating to unsworn  
4 falsification to authorities.

5 Q. During 2016, did you have any  
6 --- strike that.

7 In 2016, did any allegation of  
8 fraud in circulation of nominating  
9 papers come to your attention?

10 ATTORNEY JOEL:

11 Object to the form. Go  
12 ahead.

13 A. I don't know that any  
14 allegation --- official allegations of  
15 fraud came to our attention.  
16 Typically, in the process of reviewing  
17 nomination petitions and nomination  
18 papers we may see something, for  
19 example, somebody it appears filled  
20 out several signature lines in the  
21 same hand. Other things --- and we'll  
22 mention it to the candidate. We're  
23 looking at the --- we're assuming  
24 everything on the nomination petitions  
25 and nomination papers is facially



1       valid. But there are things that  
2       we've seen over the years and we  
3       usually mention it to the filer just  
4       to let them know.

5       BY ATTORNEY ROSSI:

6       Q.       So what is the process when  
7       somebody files a nominating paper?  
8       What is the process that your office  
9       goes through in accepting that paper?

10      A.       Basically we do a line-by-line  
11      --- we make sure all the required  
12      information on each page is completed  
13      about the candidates. You know, make  
14      sure that the candidate has identified  
15      the office on each page that he or she  
16      is seeking.

17              We also ensure that the  
18      affirmation or the statement of  
19      circulator or the affidavit of  
20      circulator is completed. And then we  
21      look at each individual signature line  
22      to ensure that all of the information  
23      is completed, that there's a name, a  
24      signature, an address and a date of  
25      signing on each line.

1 Q. And who actually does that for  
2 your office?

3 A. It would be Bureau staff we  
4 have. We do a lot of things in  
5 addition to elections, so at  
6 nomination petition, nomination paper  
7 filing time we have our election  
8 staff, as well as folks from other  
9 areas in our Bureau reviewing the  
10 nomination petitions and papers.

11 Q. So you have specific staff  
12 dedicated to reviewing election  
13 petitions, both petitions and papers,  
14 when they're filed with your office?

15 A. Correct. The nomination  
16 petitions we actually --- it's pretty  
17 much everyone. Because we get ---  
18 this year we had about, you know, I  
19 guess 1,100 candidates, most of which  
20 filed on the last two days. So it is  
21 folks from our own Bureau and even a  
22 few volunteers for nomination  
23 petitions. Nomination papers, it's  
24 our Bureau staff for the most part.

25 Q. So more petitions are filed

1       than papers?

2       A.       Correct.    Yes.

3       Q.       In 2016 --- strike that.

4               In 2016, more nominating  
5       petitions were filed than papers?

6       A.       Correct.

7       Q.       Okay.    So when nominating  
8       papers are filed, if there is a  
9       problem, are your staff members  
10      instructed to alert you to the issue?

11      A.       Yes.    They would actually alert  
12      the supervisor of admissions of  
13      elections of voter registration.    I  
14      guess it depends on what the problem  
15      is.    If there's a problem with, you  
16      know, an individual page or a problem  
17      with the nomination paper as a whole.

18      Q.       And in 2016, were you called in  
19      to review any of the nominating papers  
20      that were filed?

21      A.       I was not.    Actually I did not  
22      review any of them myself.

23      Q.       So if one of your staff members  
24      detected what they believe would've  
25      been a fraudulent statement of

1       circulator --- strike that.

2               Is it your instructions --- do  
3       you have any instructions to your  
4       staff that if they detect any kind of  
5       fraud, any affidavit or a circulator  
6       statement that you'd be made alert ---  
7       aware of that problem?

8                       ATTORNEY JOEL:

9               Just object to the form.

10       A.       And our staff is not trained to  
11       detect fraud. I tried to make the  
12       distinction, and maybe I didn't do a  
13       good job. We don't assume anything as  
14       fraud and we're not necessarily ---  
15       our staff is not equipped to make a  
16       determination there. But if we see  
17       --- you know, and typically what we'll  
18       see is it looks like the same person  
19       has the same handwriting. We will  
20       note of that to the candidate, because  
21       it may be relevant to the candidate in  
22       the coming days. But we do not train  
23       them to detect fraud.

24                       BY ATTORNEY ROSSI:

25       Q.       So your staff members are not

1 looking for instances of fraud, with  
2 respect to nominating petitions or  
3 papers?

4 A. Right. There's all kinds of  
5 fraud, what they are trained to do is  
6 notify the candidate. If it appears  
7 that somebody may have written a  
8 number of signature lines in the same  
9 hand ---- and there's case law on this  
10 matter. Sometimes it's okay. I  
11 believe the courts ruled in cases  
12 where the individuals who are signing  
13 it are disabled and they cannot write  
14 out their information, that would be  
15 appropriate.

16 But it would not be appropriate  
17 for somebody to just simply fill it  
18 out for each person. So they're not  
19 trained to detect fraud, they are  
20 trained to notify the filer of  
21 anomalies that they see in their  
22 nomination papers or nomination  
23 petitions.

24 Q. Were any objections filed to  
25 nominating papers filed with your

1 office in 2016?

2 A. Yes.

3 ATTORNEY JOEL:

4 Object to the form. I  
5 don't think the objections are  
6 filed with his office.

7 ATTORNEY ROSSI:

8 I'm sorry, what?

9 ATTORNEY JOEL:

10 I don't think the  
11 objections are filed with his  
12 office. I think they're filed  
13 in court. You said objections  
14 filed with his office.

15 ATTORNEY ROSSI:

16 Okay. Fair enough,  
17 correct. Strike that.

18 BY ATTORNEY ROSSI:

19 Q. To your knowledge, were any  
20 objections filed to any nominating  
21 papers that were filed with your  
22 office?

23 A. I believe there were a handful,  
24 yes.

25 Q. To your knowledge, were these

1 objections filed to papers for  
2 president?

3 A. I believe --- actually, no. I  
4 think it was Attorney General as I  
5 recall.

6 Q. Okay. To your knowledge, were  
7 there any allegations of fraud on that  
8 case?

9 A. To my knowledge, no.

10 Q. Referring to Plaintiff's  
11 Exhibit Number 1, when nominating  
12 papers are filed with your office,  
13 what are your staff members instructed  
14 ---? How are your staff members  
15 instructed to deal with a statement of  
16 circulator that is not fully executed?

17 A. It would depend on the  
18 circumstance. Obviously, the page  
19 cannot be accepted. If it's on the  
20 filing deadline, we would not count  
21 the signatures on that page. If  
22 there's time for the candidate to  
23 correct the defect, in other words  
24 take ---. If it's simply blank,  
25 whoever circulated the nomination

1 paper page could still sign it. And  
2 we'll accept it up to the deadline.

3 Q. Okay.

4 A. So it really depends on the  
5 time, you know, if it's on the  
6 deadline and there's not time to get  
7 to the circulator and have them sign  
8 it we would just simply not count the  
9 signatures in our tally.

10 Q. And with respect to Plaintiff's  
11 Exhibit 2, the nominating petition, if  
12 the affidavit is --- strike that.

13 With respect to the affidavit  
14 of circulator on a nominating  
15 petition, when they are filed with  
16 your office, does your staff review  
17 that for completeness?

18 A. They do, yes.

19 Q. And if an affidavit of  
20 circulator's not completed,  
21 completely executed, what does your  
22 staff do with that paper?

23 A. Well, the same rule would apply  
24 as with the nomination paper. It  
25 would depend if it's on the deadline



1       and there's not time to get to the  
2       circulator of the nomination petition  
3       page, we would simply not count the  
4       signatures on that page. If they were  
5       filing it two days before the deadline  
6       or even two hours and they have time  
7       to get to the circulator, then we  
8       would give it back to them and let  
9       them correct the defect and bring it  
10      back before the filing deadline.

11      Q.       Thank you.

12      A.       So it's a really a situational  
13      decision.

14      Q.       But if the affidavit is not  
15      properly executed, the signatures  
16      don't count?

17      A.       Right. We would not count the  
18      signatures and we would instruct the  
19      candidates ---. If for whatever  
20      reason that we had to reject the  
21      nomination petition or nomination  
22      paper for that basis, we would  
23      instruct them to go to the  
24      Commonwealth court, file a mandamus  
25      action seeking leave to make the

1       amendment after the deadline.

2       Q.       Did that occur in --- to your  
3       knowledge, did that occur in 2016,  
4       with respect to nominating petitions?

5       A.       I believe it did occur in a few  
6       cases with nomination petitions.

7       Q.       So because the affidavit was  
8       not executed, the ---? Is it your  
9       testimony that in 2016 there were  
10      candidates who filed nominating  
11      petitions that were not accepted ---  
12      initially accepted because the  
13      affidavit was not properly executed?

14      A.       I want to be clear. I do  
15      recall --- this is a two-sided form.  
16      There were nomination petitions. I  
17      clearly recollected there were  
18      nomination petition pages, where the  
19      front side and the back side were not  
20      attached. The affidavit itself may  
21      have been completed, but they were not  
22      submitted as a one-page form. So they  
23      were rejected and candidates went into  
24      court requesting leave to amend those  
25      nomination petitions. There were

1       probably --- I can't say for sure,  
2       there were probably some circumstances  
3       where there may have also been other  
4       defects in the affidavit. You know,  
5       it's a fairly common occurrence during  
6       filing that you'll have a handful of  
7       those.

8       Q.       Did the defects in the  
9       affidavit of circulator for nominating  
10      petitions in 2016 prevent a candidate  
11      from being able to file enough  
12      signatures to get onto the ballot?

13      A.       I don't recall that that was  
14      the case, no.

15      Q.       So when you're saying that  
16      petition pages were rejected because  
17      of a defective affidavit, you're  
18      referring to individual pages and not  
19      the entire petition?

20      A.       If there are enough pages,  
21      enough signatures on those pages that  
22      you have to reject the entire  
23      petition. Because again, we're not  
24      counting the signatures on those pages  
25      that are not correctly executed. So

1       there were candidates whose nomination  
2       petitions were rejected. And they  
3       went in to Commonwealth Court,  
4       requesting leave to amend the --- and  
5       they made those amendments and had  
6       their names placed on the ballot.

7       Q.       And circle back, when a  
8       candidate files a nominating petition,  
9       what are the tasks that your staff  
10      goes through before they accept the  
11      filing?

12      A.       It's very similar to nomination  
13      papers. They are looking at the  
14      preamble on the front and making sure  
15      that all the candidate information,  
16      the office, all of that is completed.  
17      They're also verifying that the  
18      candidate affidavit --- or the  
19      affidavit of circulator --- excuse me,  
20      is executed and completed by the  
21      circulator. And then they're doing  
22      the same individual line examination,  
23      to ensure that each line has all of  
24      the required elements completed for  
25      the signer.

1 Q. And do they review the  
2 signatures in any manner, before  
3 they're filed?

4 A. They review them for  
5 completeness. They make sure that the  
6 signature of the elector, the printed  
7 name of the voter is there as well as  
8 the address and the date of signing.  
9 So they don't do any review beyond  
10 making sure all of the information is  
11 there. And they count up to the  
12 threshold, whatever the statutory  
13 signature threshold is, they would  
14 count up to that number to ensure that  
15 the candidate has enough signatures on  
16 the nomination ---.

17 Q. So your staff does a running  
18 total of facially valid signatures up  
19 to the total that they're required to  
20 file?

21 A. Correct, yes.

22 Q. And once you've reached that  
23 number, do you continue to review any  
24 further petition pages?

25 A. We do not, we accept them at

1       that moment.

2       Q.       So if an individual page is  
3       defective in any way, those signatures  
4       are not counted, they're set aside?

5       A.       They are --- if we accept the  
6       nomination petition, they're not set  
7       aside. We typically move them --- in  
8       practice we move them to the back of  
9       the nomination petition, you know.  
10      But if the nomination petition or  
11      nomination paper as a whole is  
12      accepted we will take everything,  
13      including those pages that may not  
14      have been executed completely.

15      Q.       But for purposes of your  
16      initial review to determine whether or  
17      not a petition has sufficient  
18      signatures ,a defective petition page,  
19      those signatures are not counted?

20      A.       Correct.

21      Q.       Okay.

22      A.       Yes.

23      Q.       But then if other papers  
24      contain enough signatures, the  
25      defective pages are added to the back

1 of the petition and they're all filed  
2 together?

3 A. Correct.

4 Q. Now, with respect to nominating  
5 petitions for president, who files  
6 nominating petitions in a presidential  
7 election?

8 A. In a presidential election ---?

9 Q. In the Commonwealth of  
10 Pennsylvania, who appears on the  
11 ballot for presidential elections in a  
12 primary election?

13 A. Well, it would depend on the  
14 primary, and certainly there would be  
15 candidates for the office of President  
16 on the ballot. This year there was  
17 also US Senate candidates, you always  
18 have congressional candidates on the  
19 ballot as well. And typically you  
20 have State Senate and State House  
21 candidates on the ballot.

22 Q. Are the names of the  
23 presidential candidates the only names  
24 that appear on the ballot for the  
25 office of the President?

1 A. Yes.

2 Q. Are delegates and alternate  
3 delegates elected at the primary  
4 election?

5 A. They are, yes.

6 Q. And these are delegates to the  
7 major party's national nominating  
8 convention?

9 A. Correct, yes.

10 Q. How are delegates and  
11 alternates to major party nominating  
12 conventions elected in Pennsylvania?

13 A. Well, I'm not an expert on  
14 either party's rules. But there are  
15 district level delegates elected by  
16 both parties at the primary election.  
17 So each of those candidates would  
18 circulate a nomination petition to  
19 gain access to the primary ballot. And  
20 then they would be voted on by the  
21 registered and enrolled members of  
22 their political party. But each party  
23 also has other delegates that are  
24 elected by the State committee or  
25 appointed by State committee.



1 Q. Let's take each party  
2 separately. For the Republican party,  
3 how are their delegates and alternate  
4 delegates allocated?

5 A. I believe for both parties  
6 actually they're allocated based on  
7 the performance of the candidate for  
8 President. The rules are different in  
9 terms of how they're allocated. I  
10 believe the Republicans --- and again,  
11 I'm going to qualify my remarks. I am  
12 not an expert on either party's inner  
13 workings.

14 But I believe the Republican  
15 party, it's a winner-take-all system  
16 based on the results of the  
17 Presidential primary. And the  
18 Democratic party, I believe they are  
19 allocated by congressional district  
20 based on the performance of the  
21 presidential candidate in each  
22 congressional district.

23 Q. For the Republican party, you  
24 testified that they were allocated by  
25 district?

1       A.       I didn't. I think the  
2       Republican party it's a  
3       winner-take-all system. They are  
4       elected by congressional district,  
5       they run each of the district level  
6       delegates. In both parties, they're  
7       elected at the congressional district  
8       level. So they are voted upon. So  
9       each candidate would file a nomination  
10      petition.

11                   ATTORNEY JOEL:

12                   To be clear, when you're  
13                   talking about each candidate,  
14                   I just want to make sure it's  
15                   clear you're talking about  
16                   whatever candidate is running  
17                   for the position of delegate?

18      A.       Correct, yes.

19                   ATTORNEY JOEL:

20                   Or alternate delegate?

21      A.       Correct.

22                   ATTORNEY JOEL:

23                   Okay.

24      BY ATTORNEY ROSSI:

25      Q.       Yeah, we're talking about

1 delegates and alternates right now.  
2 Not the Presidential level candidate.  
3 We're boring down to the delegate and  
4 alternate delegate level.

5 A. Right. So the ones that are  
6 elected at the primary in both parties  
7 are elected in congressional  
8 districts. So they circulate their  
9 nomination petitions in their assigned  
10 congressional district and collect  
11 signatures from registered and  
12 enrolled members of the party within  
13 that congressional district.

14 Q. To your knowledge, how many  
15 delegates are elected for the  
16 Republicans in each congressional  
17 district?

18 A. I believe, without looking at  
19 the delegate selection plan, I believe  
20 it was three delegates and three  
21 alternates in each congressional  
22 district. I know it was the same  
23 number in each district.

24 Q. How many congressional  
25 districts are there in Pennsylvania?

1       A.       Eighteen (18).

2       Q.       How many signatures does a  
3       delegate need to --- how many  
4       signatures are a nominating petition  
5       does each delegate need to appear on  
6       the primary ballot?

7       A.       Well, a delegate would have to  
8       collect 250 signatures, I believe.

9       Q.       And how many signatures does an  
10      alternate need to collect on a  
11      petition?

12      A.       It's also 250. I was  
13      questioning myself and I was right.

14      Q.       Now, beyond delegates and  
15      alternates at the congressional  
16      district level, are there delegates  
17      and alternates elected at a statewide  
18      election level?

19      A.       I believe there are at-large  
20      delegates for both parties. But  
21      again, I'm going to qualify at this  
22      point that I am not an expert on  
23      either party's rules. But I know  
24      there are at-large delegates, don't  
25      ask me exactly how they're elected. I

1 believe they're either elected or  
2 somehow appointed through some  
3 mechanism by the State Committees.

4 Q. So those delegates and  
5 alternate delegates are determined  
6 pursuant to an allocation that is  
7 determined by the party, not by the  
8 State?

9 A. Correct.

10 Q. Okay. Are the delegate ---  
11 circling back, does the party --- do  
12 the major political parties determine  
13 how many delegates and alternates are  
14 elected at the congressional district  
15 level?

16 A. Yes, they determine how many  
17 vacancies there are for ---.

18 Q. Okay.

19 A. For delegates and thus how many  
20 will be elected.

21 Q. And the total number of  
22 delegates and alternates are  
23 determined by the major political  
24 parties themselves?

25 A. Correct, yes.

1 Q. And then are the major  
2 political parties required to elect  
3 their delegates and alternate  
4 delegates at the primary election?

5 A. If their party rules provide  
6 for the election of delegates and the  
7 same is true of State committee  
8 members then, yes, they would do it at  
9 the primary.

10 Q. And they are required by  
11 statute to do that?

12 A. Correct, yes.

13 Q. And do you know how many  
14 at-large delegates there were for the  
15 Republicans?

16 A. I do not, no.

17 Q. Okay. Is that information  
18 contained in the documents filed with  
19 your office?

20 A. I believe it would be  
21 enumerated in the delegate selection  
22 plan or the party rules.

23 Q. And have you produced that  
24 delegate selection plan for the  
25 Republican party?

1 A. Yeah, I believe we produced it  
2 for both parties.

3 Q. So whatever number of delegates  
4 and alternate delegates that the party  
5 rules reserve for at-large election,  
6 that is specified in the delegate  
7 allocation procedures that you have  
8 provided to us through a docket  
9 request?

10 A. Correct. Just to be --- to be  
11 clear how the process works, the  
12 parties are required to file those  
13 documents with us by a certain date.  
14 And that's how we know how many  
15 vacancies there are for delegates and  
16 state committee members as well.

17 Q. So the at congressional level,  
18 the names of the alternate --- the  
19 delegates appear on the ballot  
20 themselves; correct?

21 A. Correct, yes.

22 Q. And say for the alternate  
23 delegates, the name of the alternate  
24 delegate appears on the ballot for  
25 each congressional district?

1 A. Correct, yes.

2 Q. And statewide, the at-large  
3 delegates. Do their names appear on  
4 the statewide ballot?

5 A. No, they're --- I believe as I  
6 said, I believe both parties actually  
7 select their at-large delegates  
8 through some other mechanism, not the  
9 primary.

10 Q. Well, whose name appears on the  
11 statewide election ballot, in the  
12 primary election for the major  
13 political parties?

14 A. For ---?

15 Q. Does the name of the  
16 presidential candidate actually appear  
17 on the statewide ballot?

18 A. Well, whoever submitted  
19 nomination petitions ---

20 Q. Okay.

21 A. --- for the office of President  
22 would have their name on the ballot,  
23 yes.

24 Q. So if I want to run for  
25 President and I want to appear on the



1 Commonwealth's ballot, the primary  
2 election ballot, I myself have to  
3 circulate nominating petitions to get  
4 on the Statewide ballot?

5 A. Yes, correct.

6 Q. And how many signatures does it  
7 take for me --- for a person to appear  
8 on Pennsylvania's primary election  
9 ballot for the office of President of  
10 the United States?

11 A. It's 2,000 signatures.

12 Q. Do the presidential candidates  
13 --- let's talk about the Republican  
14 party first. Do the presidential  
15 candidates for the Republican party  
16 select delegates to appear on the  
17 ballot?

18 A. No.

19 Q. Any registered and enrolled  
20 member of a party may appear on ---  
21 may circulate petitions to appear as  
22 to --- appear on the ballot as a  
23 delegate and alternate delegate?

24 A. Correct, yes.

25 Q. Okay. For the Democrats, do

1 the presidential candidates, to your  
2 knowledge, have any control over who  
3 appears on the ballot as their  
4 delegates and alternate delegates?

5 A. They do have right of review,  
6 yes.

7 Q. Okay.

8 A. As I understand it, the  
9 individuals who wish to ---. The  
10 Democratic party has a committed  
11 delegate rule.

12 Q. Okay.

13 A. Delegate candidates have to  
14 commit to a specific presidential  
15 candidate. And those delegate  
16 candidates are required to file  
17 paperwork with the state party. And  
18 then the presidential candidates are  
19 given right of review essentially.

20 Q. Okay. I never voted in  
21 Democrat primary, so I don't know the  
22 answer to this question. Is the name  
23 underneath --- the name of the  
24 alternate delegate that appears on the  
25 ballot in the primary election, does

1 the name of the candidate to whom  
2 they're committed to appear with them  
3 or is --- do they not appear?

4 A. It does appear. So each  
5 candidate in the Democratic primary,  
6 each candidate for delegate and each  
7 candidate for alternate delegate will  
8 have a notation either next to their  
9 name or underneath their name  
10 identifying which presidential  
11 candidate they're committed to.

12 Q. And are Democrat presidential  
13 candidates allowed to have more  
14 delegates on the congressional ballot  
15 than they are allowed to elect?

16 ATTORNEY JOEL:

17 Object to the form. You  
18 said congressional ballot.

19 ATTORNEY ROSSI:

20 Yeah. That was a lousy  
21 question. Strike that.

22 BY ATTORNEY ROSSI:

23 Q. How may presidential candidates  
24 for the Democrats ran in 2016?

25 A. You mean ran or were on the

1 ballot?

2 Q. Were on the ballot.

3 A. Okay.

4 Q. On the primary ballot?

5 A. I believe ultimately it was  
6 three.

7 Q. And who were they?

8 A. Hillary Clinton, Bernie Sanders  
9 and Rocky De La Fuente.

10 Q. And you testified earlier that  
11 delegates were selected at large at  
12 the statewide level and at the  
13 congressional level for the Democrats?

14 A. Right. I believe they're  
15 selected at large based on my reading  
16 and understanding of the party rules,  
17 that they're selected by the state  
18 committee, the at-large delegates.

19 Q. Okay.

20 A. The district level delegates  
21 are elected at the primary.

22 Q. Okay. And Hillary Clinton was  
23 a candidate in 2016 on the Democratic  
24 presidential preference primary  
25 ballot; correct?

1 A. Correct, yes.

2 Q. And she had her name attached  
3 to delegates and alternate delegates  
4 at the congressional district level?

5 A. Right. Those delegates  
6 committed themselves to her, so her  
7 name would've appeared next to theirs.

8 Q. Is a Democrat presidential  
9 candidate allowed to have an unlimited  
10 number of delegates on the  
11 congressional ballot dedicated to  
12 them?

13 A. I don't believe so. I think  
14 they --- up to a number of ---.

15 Q. Okay. And do you know how many  
16 delegates and alternate delegates for  
17 the Democrats were allowed at the  
18 congressional level for each  
19 candidate?

20 A. I don't. Each congressional  
21 district is different.

22 Q. Oh, okay.

23 A. The way the Democratic party  
24 apportions vacancies for delegate is  
25 based on a calculation, it's not ---.

1       So it's a different number for each  
2       congressional district and I do not  
3       have them committed to memory.

4       Q.       So unlike the Republicans that  
5       have a three delegate and three  
6       alternate for congressional level per  
7       your testimony, Democrats differ by  
8       congressional?

9       A.       They do, yes. Do you mind if  
10       I, I need to ---?

11       Q.       Absolutely, let's take a break.

12       A.       Thank you.

13       SHORT BREAK TAKEN

14       BY ATTORNEY ROSSI:

15       Q.       Aside from --- you testified  
16       that you have many duties as a  
17       Commissioner. What other functions do  
18       you oversee as part of your job as  
19       Commissioner with respect to  
20       elections?

21       A.       Related to elections, campaign  
22       finance as well. Lobbying disclosure  
23       is tangentially related to elections  
24       in that lobbyists have to file  
25       campaign finance reports if they're

1 contributing to candidates. So I  
2 would say those are the ---. And the  
3 division of --- we have a division of  
4 the statewide registry of electors  
5 which is the statewide voter  
6 registration database. Those are the  
7 election-related divisions within the  
8 Bureau.

9 Q. With respect to voter  
10 registration, does your office  
11 promulgate the form used to register  
12 voters in Pennsylvania?

13 A. We do, the official voter  
14 registration mail applications.

15 Q. And is it correct now that  
16 individuals can register to vote  
17 online?

18 A. It is, yes.

19 Q. Okay. When did that change  
20 take place?

21 A. It was deployed in August of  
22 last year, August 2015.

23 Q. How does an online registration  
24 differ than a paper registration?

25 A. Well, it differs in form

1 obviously, because it's coming to the  
2 counties electronically. And I mean,  
3 that's the substantial difference.  
4 The statutory requirements are the  
5 same, the individual has to submit  
6 certain information. The online form  
7 is designed in such a way as to  
8 capture from the Department of Motor  
9 Vehicles, PennDOT, digitized signature  
10 of the voter, of the registrant if  
11 they're a --- have a PennDOT ID or a  
12 driver's license. Otherwise, they can  
13 upload a digitized signature.

14 Q. When somebody registers to vote  
15 on a paper format that you've  
16 promulgated, not online but on paper,  
17 when they sign that paper, is that  
18 signature subject to any kind of  
19 penalty of perjury?

20 A. I believe it would be subject  
21 to the same unsworn falsification  
22 provisions of Title 18.

23 Q. Okay. And when you say the  
24 same unsworn provisions ---?

25 A. I think it's similar to the



1 language on the nomination paper.

2 Q. Okay.

3 A. Affirmation.

4 Q. Is that affirmation the same  
5 for the online signature?

6 A. Yes, the --- essentially the  
7 registrant checks a box next to the  
8 affirmation, the statements and  
9 affirmation, saying that they agree  
10 with those statements before they  
11 sign.

12 Q. How does somebody sign a voter  
13 registration form online?

14 A. Well, as I said, they can  
15 upload a signature. They also have  
16 the option of having their digitized  
17 signature brought over from the  
18 Department of Transportation. If for  
19 whatever reason they cannot do either  
20 one of those, their application is not  
21 complete. The data is sent to the  
22 county, their application is placed in  
23 a pending status. And actually a  
24 signature form is mailed out that they  
25 would physically sign and return

1 before they're ---.

2 Q. So if I wanted to register to  
3 vote online, I would have to  
4 physically upload a signature onto the  
5 form and then send it to you?

6 A. You wouldn't have to if you  
7 have a PennDOT ---.

8 Q. Okay.

9 A. So that's the alternative if  
10 you don't.

11 Q. Okay. So if I'm not a licensed  
12 driver in Pennsylvania ---?

13 A. Right.

14 Q. Or I don't have a State ID?

15 A. Correct.

16 Q. I have to somehow sign the form  
17 digitally myself?

18 A. Actually, you would upload an  
19 image of your signature.

20 Q. Okay.

21 A. Because the voter record has to  
22 contain an image of your actual  
23 signature. You are able to  
24 essentially clip and upload --- an  
25 image ---

1 Q. Okay

2 A. --- of your signature and add  
3 it. If you cannot do either, then  
4 your application is placed in pending  
5 status until you submit a signature to  
6 the county voter registrar.

7 Q. And that's on a physical piece  
8 of paper?

9 A. Correct, yes.

10 Q. Now, with respect to voter  
11 registration forms, are individuals  
12 allowed to take a voter registration  
13 form to an individual and ask them to  
14 sign it?

15 A. They can, yes.

16 Q. After a voter registration form  
17 is signed by a prospective voter, is  
18 that --- can the person who presented  
19 the form, take the form back and file  
20 it with your office?

21 A. They can, yes.

22 Q. First of all, are voter  
23 registration forms filed with your  
24 office?

25 A. They are not filed with our

1 office. They can be submitted to our  
2 office and we will forward ---

3 Q. All right.

4 A. --- them on to the county voter  
5 registration office.

6 Q. Or they can be filed directly  
7 with the county registration office;  
8 correct?

9 A. Correct, yes.

10 Q. So if I wanted to register  
11 somebody to vote, I'm allowed to hand  
12 them that form to fill out?

13 A. You are, yes.

14 Q. I'm allowed to take the form  
15 back from the voter?

16 A. Yes.

17 Q. And then I'm allowed to file it  
18 in the county?

19 A. Correct, yes.

20 Q. Or with you?

21 A. Right.

22 Q. Or with your office?

23 A. Yes. If the voter allows you  
24 to take their form back you --- you  
25 know, of course then you're

1 responsible for it. And you have to  
2 submit it to the appropriate county or  
3 to the Department of State.

4 Q. Okay. If I take custody and  
5 control of a voter registration form  
6 and file it with your office, do I  
7 have to execute any kind of document  
8 that I witnessed a signature being  
9 taken on the voter registration form?

10 A. No, the voter is signing the  
11 affirmation, but if you provide any  
12 kind of assistance, yes, then you  
13 would have to sign your name. So if  
14 you help the voter fill the form out,  
15 there is an area on the paper form  
16 where you would have to identify  
17 yourself.

18 Q. So if I'm asking somebody to  
19 register to vote and I actually fill  
20 in part of the form for them, then  
21 what do I have to do as part of that  
22 form?

23 A. You have to provide your name  
24 and I believe address and telephone  
25 number, contact information if you

1       assisted them with the completion of  
2       the form.

3       Q.       Does that part of the voter  
4       registration form that I have to fill  
5       out as someone who has helped somebody  
6       register to vote, does that need to be  
7       notarized?

8       A.       It does not, no.

9       Q.       If I help somebody to fill out  
10      a voter registration form and I  
11      execute that portion that I'm required  
12      to execute, is that subject to the  
13      penalties of perjury?

14      A.       If you're assisting the ---?

15      Q.       Correct.

16      A.       I don't have the form in front  
17      of me, I don't know if there's a small  
18      affirmation for the person who  
19      assisted. I think it's really there  
20      just to identify that the individual  
21      did not complete the form themselves.  
22      But I can't recall exactly what that  
23      area of the form looks like. I know  
24      there's an area for that purpose.

25      Q.       Okay. But you don't know ---

1       you do know it does not need to be  
2       notarized?

3       A.       Correct.

4       Q.       Is that your testimony? But  
5       you don't know if it's subject to  
6       penalties of perjury?

7       A.       I don't know, I don't know if  
8       there's explicit language on the form  
9       ---

10      Q.       Fair enough.

11      A.       --- that says that for the  
12      person who assisted.

13      Q.       If I don't help the voter  
14      actually complete the form, I don't  
15      have to execute any part of the  
16      document; is that your testimony?

17      A.       Correct, yes.

18      Q.       So I can ask my mother to  
19      register to vote, give her the form;  
20      correct?

21      A.       Yes, correct.

22      Q.       She then has to execute the  
23      voter registration form herself?

24      A.       Correct, yes.

25      Q.       She has to sign it?

1 A. Correct.

2 Q. Right? That signature is  
3 subject to the penalty of perjury?

4 A. Correct.

5 Q. But does the voter need to  
6 notarize her signature?

7 A. No, she does not.

8 Q. After my mother registers to  
9 vote by paper, she can hand the form  
10 back to me; correct?

11 A. She can if she wishes to.

12 Q. Okay. And then I can file it  
13 with the county registration office;  
14 correct?

15 A. Yes.

16 Q. And I don't need to execute any  
17 part of that form?

18 A. Correct.

19 Q. Okay. You testified earlier  
20 that you promulgate the nominating  
21 petition forms and nominating papers;  
22 correct?

23 A. Correct, yes.

24 Q. Who ultimately determines what  
25 that form looks like?



1       A.       Well, ultimately the content of  
2       the form is determined by the General  
3       Assembly.

4       Q.       Okay. But you are authorized  
5       to draft the form?

6       A.       Correct, we're authorized to  
7       basically draft the format of the  
8       form, provided that it includes all of  
9       the statutorily-mandated information,  
10      yes.

11      Q.       And with respect to voter  
12      registration forms, you have the same  
13      authority to determine what goes into  
14      that form?

15      A.       Correct, yes.

16      Q.       When you moved to online voter  
17      registration, did you require an act  
18      of the Legislature to prove that?

19      A.       Actually, the statute already  
20      provided for it, an electronic version  
21      of voter registration.

22      Q.       Just to square the corners,  
23      does the statute allow for nominating  
24      petitions and papers to be placed  
25      online?

1       A.       The statute doesn't explicitly  
2       speak to it being placed online. It  
3       does require that copies of the  
4       nomination petitions and nomination  
5       papers that are filed with our office,  
6       be made available for inspection,  
7       so ---.

8       Q.       Okay. If you decided to put  
9       --- to allow people to sign nominating  
10      petitions and papers online, would you  
11      have the authority to do that?

12      A.       Yeah, I think we would still  
13      need to --- I mean, that's a  
14      complicated question.

15      Q.       I understand.

16      A.       Signing, you know, actually  
17      signing online I suppose if the  
18      technology gets to that point. I  
19      don't know that there's anything in  
20      the statute that would bar us from  
21      doing that. We would still at the end  
22      of the day have to have a nomination  
23      petition or nomination paper that  
24      included all of the requirements, as  
25      set forth in the election code.

1 Q. So you're not ---?

2 A. It's just the written name and  
3 the signature of each signer as well  
4 as the signature of the circulator.

5 Q. So you do not believe that the  
6 statute would allow you to borrow  
7 signatures from PennDOT for a  
8 nominating petitioner paper?

9 A. It's an interesting question, I  
10 don't know that the statute explicitly  
11 bars that. It provides for what must  
12 be on the nomination petition. How it  
13 gets there, I suppose we could ---  
14 we'd have a little bit of discretion  
15 in that matter.

16 Q. I'm just trying to, for the  
17 record, to establish your limits with  
18 respect to petitions and papers versus  
19 other areas of your responsibilities.

20 A. And keep in mind doing an  
21 online process for this, you know,  
22 this ---. The individual who is  
23 signing as the circulator has to  
24 attest to the fact that they  
25 essentially know and witnessed the

1 signature of each of the signers on  
2 that. Doing this online, you know,  
3 makes that --- probably makes that a  
4 little more complicated. You know, I  
5 can certainly imagine a process where  
6 you walk around with a tablet and you  
7 have people signing. But you still  
8 have to meet the requirements of the  
9 election code in any event.

10 Q. Or you can bypass circulators  
11 all together; correct? Somebody could  
12 just walk in --- if you were allowed  
13 to put these online? And they could  
14 just sign themselves, without any kind  
15 of circulator involved?

16 ATTORNEY JOEL:

17 Objection.

18 A. If the statute were to be  
19 amended, yes.

20 BY ATTORNEY ROSSI:

21 Q. But you don't have that  
22 authority now to put that online?

23 A. Correct.

24 Q. Okay.

25 A. Right.

1 Q. So we're not dealing with an  
2 analogous situation between voter  
3 registration and election petitions?

4 A. Correct.

5 Q. You have the statutory  
6 authority to place voter registration  
7 online; correct?

8 A. Correct.

9 Q. And you don't have the  
10 statutory authority to put these  
11 online for election petitions?

12 A. Right. Like I said, I don't  
13 know that we're explicitly barred but  
14 we have to ---. What the statute  
15 requires would make it difficult to  
16 put it online and make it an anonymous  
17 process.

18 Q. What documents do major  
19 political parties need to file with  
20 your office?

21 A. Well, as I stated earlier, they  
22 have to file a copy of their party  
23 rules. So in a presidential election  
24 year they also have to file a copy of  
25 their delegate selection plan. It

1 usually accompanies the party rules.  
2 Even in an off-year election, they  
3 have to certify to us.

4 So for example, in the next  
5 gubernatorial election, the state  
6 parties will be electing State  
7 committee members. So they would have  
8 to submit to us their --- basically  
9 their plan for electing State  
10 committee members and tell us how many  
11 vacancies there are for each county or  
12 each district within a county.

13 Q. So it's your testimony that  
14 there's essentially two documents that  
15 the parties are required to file with  
16 your office, their party rules and  
17 their delegate selection plans?

18 A. Right. Delegate or state  
19 committee. They have to file with us  
20 vacancies for party offices that are  
21 going on with primary ballot.

22 Q. Okay. Going back to the part  
23 that --- when you say party rules, are  
24 you saying the party bylaws need to be  
25 filed with your office? Is that the

1 document that needs to be filed?

2 A. Correct, yes.

3 Q. Okay. And to your knowledge  
4 --- strike that.

5 When they file these, when  
6 major political parties file their  
7 bylaws, do you review them?

8 A. We do not.

9 Q. Okay.

10 A. I read them because I'm weird.

11 Q. Fair enough.

12 A. But no, we do not.

13 Q. No, it's an interesting area.  
14 To your knowledge, do the bylaws  
15 address who may circulate election  
16 petitions for their party?

17 A. I don't know that the bylaws  
18 address it. I think there may be ---  
19 I know each party certainly limits  
20 candidates for their party offices to  
21 those who are registered and enrolled  
22 members of the party. I don't know  
23 whether they speak to the circulators  
24 directly or not, I don't recall.

25 Q. And you have produced the

1       bylaws for both the Republican and  
2       Democrat parties?

3       A.       Correct.

4       Q.       And the Republican and Democrat  
5       parties are the only two major  
6       political parties in Pennsylvania?

7       A.       Correct, yes.

8       Q.       Have you had any discussions  
9       with officials of the major political  
10      parties with respect to the rules  
11      regarding circulators?

12      A.       Over the years, yes. We've  
13      answered questions regarding that.

14      Q.       Do you remember any of those  
15      conversations?

16      A.       Well, I don't remember them in  
17      great detail. When we --- for  
18      example, when we put the nomination  
19      petition form online a few years ago  
20      and allowed candidates to submit their  
21      information electronically and create  
22      the forms themselves, we did talk to  
23      officials from each of the parties.  
24      We also met with the members of the  
25      campaign committees just to unroll ---



1       you know, unveil this and tell them  
2       how it worked, et cetera. We  
3       frequently get questions from, you  
4       know, state committees --- and not  
5       just the major parties, also the Green  
6       party, Libertarian party. We get  
7       questions about the rules for  
8       circulating and we answer them as a  
9       matter of course. So I don't  
10      remember, I remember the presentations  
11      we did when we unveiled the online  
12      petition form for the parties.  
13      Because that was something we wanted  
14      to get --- you know, we wanted them to  
15      be familiar with it before we launched  
16      it.

17      Q.       The online --- and you're  
18      referring to the fact that --- is 2016  
19      the first time that nominating  
20      petitions were printed off the  
21      internet?

22      A.       No, actually 2014 I believe was  
23      ---.

24      Q.       Oh, it was 2014?

25      A.       Yeah, or it might've even been

1       2013. I think we might've done it  
2       first in 2013. But in 2014 it was the  
3       first general election and we  
4       optimized the form. It has a QR codes  
5       on it, et cetera. All the things you  
6       see on the current version of the  
7       nomination petition were implemented  
8       in 2014.

9       Q.       So candidates who want to  
10       circulate petitions must --- are they  
11       required to print them off the  
12       internet?

13       A.       They're not required to. If a  
14       candidate wishes to obtain hard copies  
15       of the forms, our staff is trained to  
16       actually enter their information and  
17       submit. We still create the forms  
18       from the system.

19       Q.       Okay.

20       A.       But if somebody, you know,  
21       comes in and asks for the forms we  
22       either have them sit down and go  
23       online themselves or one of our staff  
24       will do it and then provide them with  
25       hard copies.

1 Q. You testified that in 2014, you  
2 changed the affidavit of circulator  
3 from paper to a statement of  
4 circulator?

5 A. Yeah.

6 Q. Can I see that? Can I see the  
7 exhibit too? So for a nominating  
8 paper, it's now a statement of  
9 circulator?

10 A. Correct.

11 Q. Okay. But for petitions, it's  
12 still an affidavit of circulator?

13 A. Correct, yes.

14 Q. Do those --- does the  
15 information required for a statement  
16 of circulator on paper provide all the  
17 information that you need to  
18 understand who is circulating that  
19 paper?

20 ATTORNEY JOEL:

21 Object to the form.

22 BY ATTORNEY ROSSI:

23 Q. Strike that. Let me start  
24 over.

25 Let me see the exhibit, please.

1 Does the statement of circulator  
2 provide the same information as the  
3 affidavit of circulator?

4 ATTORNEY JOEL:

5 Object to form.

6 A. For the individual who  
7 circulated?

8 BY ATTORNEY ROSSI:

9 Q. Correct.

10 A. Yes, it would provide the name  
11 and address for the individual who  
12 either circulated the petition or the  
13 nomination ---.

14 Q. What is the purpose of an  
15 affidavit of circulator?

16 ATTORNEY JOEL:

17 Object to the form. Go  
18 ahead.

19 A. The purpose of the affidavit of  
20 circulator is basically the  
21 affirmation that the individual who  
22 signed as circulator has personal  
23 knowledge that the individuals signing  
24 that are qualified and that they  
25 signed the nomination petition page.

1       BY ATTORNEY ROSSI:

2       Q.       And does the statement of  
3       circulator on a paper provide the same  
4       information to you?

5                       ATTORNEY JOEL:

6                       Object to the form.

7       A.       Right. Again the individual  
8       who signs the statement of circulator  
9       would be basically affirming the same  
10      information. In other words, that  
11      they have personal knowledge of the  
12      signers of the nomination paper page.

13      BY ATTORNEY ROSSI:

14      Q.       Do you believe that the  
15      statement of circulator is identical  
16      to the affidavit of circulator?

17                       ATTORNEY JOEL:

18                       Object to the form.

19      BY ATTORNEY ROSSI:

20      Q.       Is there any information on the  
21      statement of circulator --- strike  
22      that.

23                       Is there any information on the  
24      affidavit of circulator that is not  
25      present in the statement of

1       circulator?

2                               ATTORNEY JOEL:

3                               Object to the form.   Go  
4                               ahead.

5       A.       I'm sure there is.   Again,  
6       there are differences in the language.  
7       If you're asking if they serve similar  
8       purposes, the answer is yes.

9       BY ATTORNEY ROSSI:

10      Q.       Okay.   And is there any purpose  
11      that the affidavit of circulator  
12      provides you, that is not served by  
13      the statement of circulator?

14                               ATTORNEY JOEL:

15                               Object to the form.

16      A.       I think as a practical matter,  
17      it provides the same information about  
18      the circulator.   There are differences  
19      between the two processes, obviously,  
20      that make them apples and oranges in  
21      some ways.

22       BY ATTORNEY ROSSI:

23      Q.       Okay.   Other than the  
24      notarization requirement for a  
25      petition --- affidavit of circulator,

1       does the statement of circulator on a  
2       paper provide you the same  
3       information?

4       A.       It does. For us as the  
5       administrator it gives us the  
6       information we need, the name and  
7       address of the person who circulated  
8       the page.

9       Q.       Does your office investigate  
10      --- strike that.

11              Does your office involve ---  
12      strike that.

13              Voter registration fraud, do  
14      you have any area of responsibilities  
15      --- strike that.

16              Have you been made aware of any  
17      allegations of voter registration  
18      fraud during your tenure ---?

19      A.       Ever?

20      Q.       During your tenure.

21      A.       Yes, we have been made aware of  
22      prosecutions over voter registration  
23      fraud over the years.

24      Q.       Have you ever testified in any  
25      of those cases?

1       A.       I have not, I have not  
2       testified in any criminal cases. I  
3       did testify in a civil case in  
4       Commonwealth Court several years ago  
5       where ACORN was a named defendant, I  
6       believe that was 2008.

7       Q.       Okay. How are you made aware  
8       of prosecutions of voter registration  
9       fraud?

10      A.       There's no official process,  
11      district attorneys are not required to  
12      submit any information to us. But we  
13      will hear from election directors if  
14      someone was prosecuted within their  
15      county, so ---.

16      Q.       Are you aware of any  
17      prosecutions of election petition  
18      fraud?

19      A.       Yes, over the years there have  
20      been a number of those either  
21      prosecuted by the Attorney General's  
22      office or district attorneys  
23      throughout the Commonwealth.

24      Q.       Have any prosecutions come to  
25      your awareness for 2016?



1 A. I'm not aware of any in 2016.

2 Q. And that's for petitions or  
3 papers?

4 A. Correct, yes.

5 Q. And do you --- with respect to  
6 election petition fraud, issues that  
7 have come to your attention, do you  
8 have any --- are you able to testify  
9 as to your memory as to what those  
10 issues involved?

11 A. I think, you know, there were a  
12 few cases that come to mind because  
13 they were actually legislators,  
14 incumbent legislators who were  
15 prosecuted. Or at least individuals  
16 who worked for their campaign were  
17 prosecuted. A lot of it was on the  
18 validity of signatures. I think in  
19 two different incidences, individuals  
20 purportedly signed a nomination  
21 petition and then that testified under  
22 oath that they actually did not sign  
23 the nomination petition.

24 Q. And to your knowledge, were  
25 these prosecutions for petitions or

1       for papers?

2       A.       I believe they were for --- the  
3       ones that I recollect were for  
4       nomination petitions, specifically.

5       Q.       Okay. Do you know how many  
6       registered voters there are in  
7       Pennsylvania?

8       A.       Currently it's about 8.6  
9       million.

10      Q.       Do you know the breakdown by  
11      major political party?

12      A.       Oh, gosh, no. I haven't  
13      looked. The number has actually gone  
14      up by several hundred thousand just in  
15      the last several weeks. So it's a  
16      moving target.

17      Q.       Do you know what percentage of  
18      voters are registered with the major  
19      political parties?

20      A.       I believe between the two of  
21      them, probably I would say about 80  
22      percent, if not more, are registered  
23      with major parties.

24      Q.       Either Republicans or  
25      Democrats?

1 A. Correct, yes.

2 Q. Do you get reports with respect  
3 to voter registration numbers by  
4 county?

5 A. We do a variety of things.

6 Q. Are voter registrations for  
7 Republicans and Democrats evenly  
8 spread out throughout the State? Or  
9 do Republicans usually predominate one  
10 county or Democrat registration  
11 predominate one county?

12 A. If you look at the  
13 demographics, I guess, of voter  
14 registration, you have individual  
15 regions actually that favor one party  
16 more than another and certainly  
17 counties where you'll have a  
18 significant edge. And then you also  
19 have counties where the parties are  
20 pretty evenly split. So it really  
21 depends on exactly where you are in  
22 the state.

23 Q. But it's your testimony that in  
24 some areas of the state, there will be  
25 more Republicans than Democrats?

1 A. Correct, yes.

2 Q. And other parts of the state,  
3 there will be more Democrats than  
4 Republicans ---?

5 A. Correct.

6 Q. In a county?

7 A. Yes.

8 Q. Okay. But then there's also  
9 counties then that actually have equal  
10 ---?

11 A. Pretty evenly split, yeah.

12 Q. Do you know what counties?

13 A. Gosh, now you're quizzing me.

14 Q. I don't mean to ---.

15 A. Numbers that you know, Delaware  
16 County is pretty close. I know  
17 Montgomery County in recent years the  
18 split is much narrower. And I think  
19 the same is true in a county like  
20 Lycoming County. You know, obviously,  
21 one party will have an advantage but  
22 it's not necessarily a significant  
23 advantage.

24 Q. But there are counties where  
25 one party is more dominant than other

1 parties?

2 A. Yes.

3 Q. The other party.

4 A. Correct.

5 Q. And is there any way for an  
6 individual to determine which counties  
7 that there are more Republicans in  
8 than Democrats?

9 A. Sure. We have the statistics  
10 posted on our website. We actually  
11 update them on a weekly basis.

12 Q. So that information ---?

13 A. That would show that breakdown  
14 by county, by party.

15 Q. So you actually have online  
16 party registration breakdown by  
17 county?

18 A. Yeah, correct.

19 Q. Okay. And that's available to  
20 everybody?

21 A. It is.

22 Q. Do you provide information down  
23 to the voter as to their registration  
24 status?

25 A. We do, yes.

1 Q. Okay. How does somebody find  
2 out if I am a registered Republican or  
3 Democrat?

4 A. Well, there's a variety of  
5 ways. You can call in to our toll  
6 free number. You can go onto our  
7 website and actually search for your  
8 --- confirm your voter registration  
9 record by entering your name, address  
10 information, date of birth.

11 Q. But is there any form that is  
12 available to the public that in ---  
13 strike that.

14 How are the voter registration  
15 numbers broken down, for purposes of  
16 the election?

17 A. Broken down?

18 Q. Yeah. Strike that question.

19 I'm trying to get --- if I  
20 wanted to know if my neighbor was a  
21 registered voter, am I able to find  
22 out that information?

23 A. You are. You could get from  
24 --- you can get a list of all  
25 registered voters from either the

1 county or the Department of State.

2 Q. So voter registration  
3 information for everyone, is available  
4 at the county level?

5 A. Correct. For everyone in the  
6 county, you can get everyone in the  
7 Commonwealth at the state level.

8 Q. Oh, okay. So I can get the  
9 entire state --- every registered in  
10 the Commonwealth of Pennsylvania I'm  
11 able to determine if they registered  
12 Republican or Democrat?

13 A. Right, you would get a list  
14 from our office. We call it full  
15 voter export. You'd get a list of  
16 every registered voter and it would  
17 include basic information, obviously,  
18 not any personal you know, secure  
19 information. But it will provide  
20 basic information about name, address,  
21 date of birth and party registration.

22 Q. Date of birth as well?

23 A. Yes, it's actually required in  
24 the election code to be included on  
25 the public information list.

1 Q. So if I'm going down --- if I  
2 wanted to figure out --- for instance,  
3 I live on Hill Street, in Milford,  
4 Pennsylvania. And if I wanted to find  
5 out the registration status of all my  
6 neighbors, I'm able to do that through  
7 these voter export lists?

8 A. Right.

9 Q. Okay. And they're available to  
10 the public?

11 A. They are. If you were doing it  
12 on a municipal level or at the town  
13 level it may be better to go to the  
14 county and get a street list that's  
15 actually organized by street and house  
16 number.

17 Q. The street lists, are they  
18 available in hard format?

19 A. Yes, I believe the counties  
20 still print them out on paper.

21 Q. On paper.

22 A. Right. You can probably also  
23 get an extract of the same data.

24 Q. And that will indicate if  
25 somebody's registered Republican or



1 Democrat?

2 A. Correct, yes. Provide their  
3 party affiliation.

4 Q. How many notary public --- to  
5 your knowledge, how many notary  
6 publics are there in Pennsylvania?

7 A. Active, I think about roughly  
8 80,000.

9 Q. I'm learning that number in my  
10 sleep, by the way.

11 A. It is also a fluid number.

12 Q. How does someone become a  
13 notary public?

14 A. They submit an application to  
15 the Department of State, along with  
16 --- currently it's \$40. It will go up  
17 to \$42 sometime next year after the  
18 new law becomes completely effective.  
19 And basically there is a --- the form  
20 includes ---. They have to provide  
21 information about whether they've been  
22 convicted of a felony, et cetera.  
23 They provide background information,  
24 but it's basically a form and a filing  
25 fee. They do have to have training

1 completed; they have to complete a  
2 training course. And in the very near  
3 future, they will take a test as well.

4 Q. What is involved in the  
5 training for a notary public?

6 A. I do not have the number of  
7 hours committed to --- it's a few  
8 hours of training. You know, it's  
9 something that you could probably do  
10 in an afternoon.

11 Q. Where does that training take  
12 place?

13 A. There are a number of  
14 organizations that are certified or  
15 authorized to provide training. So  
16 there are locations all over the  
17 Commonwealth.

18 Q. Who certifies an individual to  
19 train potential notaries?

20 A. The Department of State.

21 Q. So does your office certify  
22 these?

23 A. Correct.

24 Q. These instructors?

25 A. They would come to us and we

1 would review their lesson plan or  
2 curriculum or whatever and certify  
3 them as being qualified to provide  
4 training.

5 Q. What are these people called  
6 that are allowed to train potential  
7 notaries?

8 A. I don't know that we've come up  
9 with a term of art.

10 Q. Okay.

11 A. But some of them are  
12 professional, you know, educational  
13 institutions that do a lot of  
14 training. Notary training is not the  
15 only thing they do, they train people  
16 in other things. Others like the  
17 notaries associations, the statewide  
18 associations are, you know, more  
19 designed more around training  
20 notaries.

21 Q. Are the people who train  
22 potential notary publics allowed to  
23 charge a fee for the instruction they  
24 provide?

25 A. Yes, I believe they are.

1 Q. Is there a maximum amount that  
2 they're allowed to charge?

3 A. I don't recall all of the  
4 regulations. I think there may be ---  
5 I don't know that there's a maximum  
6 necessarily. I can't recall whether  
7 there's a cap or not.

8 Q. To your knowledge, is there a  
9 typical fee that's charged for this  
10 training?

11 A. Yeah, I would say that to my  
12 knowledge, it's a nominal fee. Again,  
13 it's something you can take in a few  
14 hours so you're talking \$50, \$100  
15 maybe.

16 Q. Okay.

17 A. But I don't --- we have a list  
18 of them, you know, available to  
19 individuals so they know who they can  
20 go to.

21 Q. And there fees are ---?

22 A. I believe we also the fee  
23 information --- don't quote me on  
24 that. But I believe we also provide  
25 the fee information or at least

1 contact information so that they can  
2 find out what the fee is.

3 Q. And that form is available to  
4 the public, so I can get it ---?

5 A. Correct, the list, yes.

6 Q. Okay.

7 A. The list of authorized  
8 educators, notary educators.

9 Q. Currently there's no actual  
10 test that they need to take after the  
11 training?

12 A. Correct. They're required to  
13 take training, there's no statutorily  
14 mandated test. There will be next  
15 year, a new notary public law that was  
16 passed a few years ago will be fully  
17 effective beginning next year.

18 Q. And you said next year?

19 A. Yes.

20 Q. Are notaries authorized to  
21 charge a fee for their services?

22 A. They are, yes.

23 Q. Is there a maximum amount that  
24 they are allowed to charge?

25 A. I believe there is actually. I

1 think that is something defined either  
2 in statute or regulation, the maximum  
3 they can charge for the act of doing a  
4 notarization.

5 Q. Do you recall you testified in  
6 January in this case with respect to  
7 our request for emergency relief from  
8 certain rules that we're challenging?

9 A. Are you referring to the Green  
10 party case or the --- Benezet?

11 Q. Benezet Consulting.

12 A. Yes, I do recall testifying.

13 Q. At that time, do you recall  
14 testifying that there was not a  
15 maximum fee but that there was instead  
16 --- as long it was reasonable that  
17 they could charge?

18 A. Are you talking about a fee for  
19 doing the notarization?

20 Q. Correct.

21 A. Or a fee for services in  
22 addition to that?

23 Q. I'm sorry, fee to notarize ---  
24 to provide a notarized affidavit on a  
25 petition?

1       A.       The fee for executing the  
2       notary I believe is capped.

3       Q.       It is?

4       A.       There is a maximum for that.

5       Q.       And do you know what that  
6       maximum cap ---?

7       A.       It's the service fees that have  
8       to be reasonable.

9       Q.       A service fee needs to  
10      reasonable, ---.

11      A.       Correct. That's my  
12      recollection.

13      Q.       But there's a cap on the actual  
14      stamp?

15      A.       Yeah, I believe that the actual  
16      --- the act of doing the notarization  
17      is the amount they can charge is  
18      statutory.

19      Q.       And do you know what that fee  
20      is?

21      A.       I don't recall off the top of  
22      my head. It's less than \$10, I know  
23      that much. And I recall that because  
24      our associations wanted us to raise  
25      the amount they can charge.

1 Q. Okay. So the Notary Statute  
2 provides for a maximum fee to actually  
3 stamp the ---?

4 A. Correct.

5 Q. The page? What are the service  
6 fees that they can charge up to a  
7 reasonable amount? What does that  
8 involve?

9 A. Yeah, I'm not the expert on  
10 this.

11 Q. Okay.

12 A. You know, I think that would be  
13 if they're doing it --- for example,  
14 if the notarization is part of a  
15 package of papers for a mortgage or  
16 something like that, there would be  
17 other services provided by the notary  
18 in addition to just notarizing the  
19 forms. So there might be legal  
20 services or other services that are  
21 being provided along with them.

22 Q. If a notary public drove out to  
23 provide notarization service for a  
24 petition, while they could --- your  
25 testimony is that there is a cap on



1 the actual stamp that they provide to  
2 the paper?

3 A. Right.

4 Q. They could charge fees for  
5 coming out to the individual to  
6 notarize?

7 A. I don't know that there's  
8 anything that bars them if they have  
9 to travel to do the notarization. With  
10 80,000 of them, typically there's one  
11 --- not a lengthy drive to find one.

12 Q. Are notaries required to  
13 provide you with services --- strike  
14 that.

15 Are notary publics allowed to  
16 set their hours with respect to when  
17 they will notarize a paper?

18 A. I believe so, yes.

19 Q. They're not required to  
20 notarize any paper that somebody  
21 knocks on their door at midnight?

22 A. Right. They can deny service  
23 for legitimate reasons.

24 Q. Are there regulations on that  
25 issue with respect to ---?

1       A.       There are draft regulations.  
2       There are probably current regulations  
3       as well. I know there are draft  
4       regulations with the new notary law as  
5       well. I'll give you an example, if  
6       somebody works for a bank as a notary,  
7       they're not necessarily required to  
8       notarize documents for anybody.

9       Q.       Okay.

10      A.       If the bank's rules are that  
11      they only notarize for customers of  
12      the bank, then ---.

13      Q.       So employers can limit the  
14      kinds of documents that their  
15      employees will notarize during  
16      business hours?

17      A.       Correct, yes.

18      Q.       Okay. So if a notary is hired,  
19      is an employee of a business, their  
20      conduct can be constrained by the  
21      business?

22      A.       Correct.

23      Q.       When they go home, are they  
24      required to notarize documents of  
25      anybody that comes to their door?

1 A. They're not, no.

2 Q. And all of this is part of the  
3 training process that they go through,  
4 all these rules?

5 A. Yes.

6 Q. And businesses presumably, a  
7 notary --- strike that.

8 A notary who is deployed by  
9 business is subject to the same rules  
10 with respect to how much they can  
11 charge for ---?

12 A. Correct, they would ---.

13 Q. Right.

14 A. They would fall under ---

15 Q. So the business can't ---?

16 A. --- statutory requirements,  
17 right.

18 Q. So the business can't override  
19 the statutory maximum imposed on the  
20 notary fee?

21 A. Right.

22 Q. Okay. Now, you just testified  
23 that there's always a notary somewhere  
24 around the next corner. There's  
25 80,000 notaries in Pennsylvania;

1 correct, roughly?

2 A. Correct, yes.

3 Q. Is there a listing of notary  
4 publics anywhere?

5 A. Yes, you can get a list on our  
6 website. The Department, we actually  
7 keep a hard copy of the list out front  
8 at our front desk of those that are in  
9 the in the City of Harrisburg and  
10 Harrisburg area.

11 Q. So every notary public is on a  
12 list online?

13 A. Correct. You can look up and  
14 find a notary public in your location.

15 Q. Does that list include the  
16 hours that they are willing to  
17 notarize?

18 A. No. I think the list just  
19 includes the name and it might include  
20 phone number as well. I don't recall,  
21 I haven't looked on our website  
22 recently.

23 Q. What is the website address for  
24 looking up notaries?

25 A. It's on our notaries page on

1       our website. I don't recall the URL  
2       off the top of my head.

3       Q.       Okay.

4       A.       Can we take a break?

5       Q.       Yes, absolutely.

6       SHORT BREAK TAKEN

7       BY ATTORNEY ROSSI:

8       Q.       Let's go back on the record.  
9       Each county --- is it true that each  
10      county develops their own ballots for  
11      election --- for the primary election  
12      of 2016?

13      A.       Correct, each county board is  
14      required, yes, to print their own  
15      balloting materials and set up their  
16      ballot.

17      Q.       Are they required to file a  
18      copy of their ---? Do they produce a  
19      specimen for each election district?

20      A.       They are required to provide  
21      specimen ballots to the political  
22      parties and candidates within their  
23      county. And they also --- we request  
24      a copy be submitted to us so we can  
25      look at it.

1 Q. So you request a copy?

2 A. Yes.

3 Q. It's not mandated that they  
4 provide the copy?

5 A. Correct. They are only  
6 mandated --- the election code only  
7 requires them to provide sample  
8 ballots to candidates and political  
9 parties. We request a copy so that we  
10 can look at the state level  
11 information just to make sure they  
12 printed it correctly, there are no  
13 misspellings ---.

14 Q. To your knowledge, in 2016, did  
15 any county not provide all their  
16 specimens to you?

17 A. And first of all, we don't ask  
18 for all their specimens. So we're not  
19 asking for a ballot for every single  
20 precinct in their county.

21 Q. Okay.

22 A. We're asking for, you know,  
23 samples from each primary and the  
24 primary ---. So we don't --- like  
25 we're not going to get 9,300 ballots

1 to our office. And if we did, we  
2 wouldn't have time to review them.  
3 There may have been a couple of  
4 counties that didn't supply a copy.  
5 But usually we're pretty good at  
6 following up with them until they do,  
7 so ---.

8 Q. Do you maintain those copies on  
9 file?

10 A. We do, we do keep copies of  
11 them on file.

12 Q. When you say you don't ask for  
13 every election district, but every ---  
14 what was your testimony?

15 A. We ask each county to provide.  
16 So when the primary, we will ask for a  
17 sample Democrat and a sample  
18 Republican primary ballot. But we  
19 don't ask them to provide every single  
20 ballot style in their county.

21 Q. Do you have --- if I appear as  
22 an alternate delegate on a ballot,  
23 will you have somewhere --- and  
24 assuming my county provides to you all  
25 the sample ballots that you requested,

1 would I appear on one of those  
2 specimens?

3 A. Likely, yes. You know, in  
4 Philadelphia County if they provided  
5 us, you know, one for each  
6 congressional district. In most  
7 counties you have one congressional  
8 district, maybe two. But you know,  
9 Philly and your population centers,  
10 you may have, you know, more than one.  
11 I can't guarantee that we have a copy  
12 of every single --- or that we have a  
13 sample ballot from the counties that  
14 has every single delegate candidate on  
15 it.

16 Q. So then your testimony is that  
17 you don't know that you have on file a  
18 sample ballot for each congressional  
19 district?

20 A. Correct.

21 Q. And you don't know that. You  
22 could ---?

23 A. I do not know that. We could,  
24 but I don't know that we do.

25 Q. And to be clear, delegates and



1       alternate delegates for Republican and  
2       Democrat party that elected at large,  
3       they don't file any kind of nominating  
4       petition with your office; correct?

5       A.       Correct. The ones that are  
6       elected by the State committee or  
7       otherwise appointed or chosen are not  
8       --- they do not file petitions with  
9       the Department.

10      Q.       So the only signatures that are  
11      circulated and filed with your office  
12      for presidential candidates for the  
13      statewide ballot are the actual  
14      candidates themselves?

15      A.       Right. The district level  
16      delegate and alternate delegate  
17      candidates that are required to file  
18      with the Secretary.

19      Q.       Okay. Have you had any  
20      conversations about this case with  
21      officials in the Republican or  
22      Democrat party?

23      A.       I don't believe so, about the  
24      case, no.

25      Q.       So they haven't taken any kind

1 of interest in these proceedings to  
2 your knowledge?

3 ATTORNEY JOEL:

4 Object to the form. Go  
5 ahead.

6 A. I'm not even sure how aware  
7 they are of these proceedings, to be  
8 honest.

9 BY ATTORNEY ROSSI:

10 Q. But you have not had any  
11 conversations with any Republican  
12 official about this case?

13 A. Correct.

14 Q. And you have not had any  
15 conversations with any Democrat  
16 official about this case?

17 A. Correct.

18 Q. Have you discussed this case  
19 with anyone aside from your legal  
20 counsel?

21 A. Sure, I've discussed it with my  
22 staff, probably back in January and  
23 over the months. But I actually  
24 forgot about it shortly after that.  
25 After the first hearing and I was

1       reminded when I got the request for  
2       the deposition.

3       Q.       It was like a deer in the  
4       headlights, oh, this.

5       A.       I was like, oh, yeah. Okay. I  
6       was busy in the intervening months.

7       Q.       You have the authority to  
8       change the format of nominating  
9       petitions and papers; correct? That's  
10      your testimony?

11      A.       Correct. To the extent that  
12      it's still complies with the ---

13      Q.       Correct.

14      A.       --- clear statutory mandates.

15      Q.       Do you authorize that change or  
16      does the Secretary of the Commonwealth  
17      authorize that change?

18      A.       It would probably depend on how  
19      earth-shattering the change is. I  
20      would certainly have to run it by the  
21      Deputy Secretary, my boss. Whether  
22      the Secretary would need to review it  
23      would depend on why we're making the  
24      change and what the change is.

25      Q.       Okay. That's all my questions.

1 I appreciate it, thank you for your  
2 testimony.

3 A. Sure, you're welcome.

4 ATTORNEY ROSSI:

5 I'm sure you're ---.

6 ATTORNEY JOEL:

7 I don't have any.

8 \* \* \* \* \*

9 DEPOSITION CONCLUDED AT 12:15 P.M.

10 \* \* \* \* \*

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COMMONWEALTH OF PENNSYLVANIA )

COUNTY OF BEDFORD )

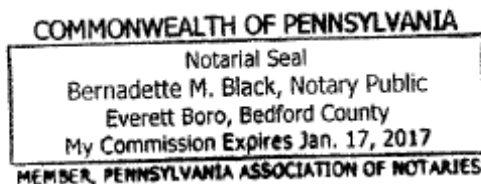
CERTIFICATE

I, Bernadette M. Black, a Notary  
Public in and for the Commonwealth of  
Pennsylvania, do hereby certify:

That the witness whose testimony  
appears in the foregoing deposition, was duly  
sworn by me on said date, and that the  
transcribed deposition of said witness is a  
true record of the testimony given by said  
witness;

That the proceeding is herein recorded  
fully and accurately;

That I am neither attorney nor counsel  
for, nor related to any of the parties to the  
action in which these depositions were taken,  
and further that I am not a relative of any  
attorney or counsel employed by the parties  
hereto, or financially interested in this  
action.



*Bernadette M. Black*

Bernadette M. Black,  
Court Reporter